

City of Detroit


CITY COUNCIL

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TO: The Honorable Detroit City Council

FROM: David Whitaker 
Research and Analysis Division Staff

DATE: January 29, 2008

RE: Rules Governing the Calling of City Council Closed Sessions

The rules for calling for a City Council Closed Session are governed by the Rules of Order for the Detroit City Council, the Charter for the City of Detroit, and the Michigan Open Meetings Act. The Michigan Open Meetings Act¹ is the ultimate authority when calling for a closed session. The Research & Analysis Division (RAD) cites the following, which supports the Open Meetings Act relative to Closed Sessions

Charter Authority

The Charter of the City of Detroit states, "All business which the city council may perform shall be conducted at a public meeting held in compliance with the opening meetings act..."

Council Rules

5.1 All meetings of the Detroit City Council shall be open to the public and held in accordance with the Michigan Open Meetings Act.

The City Council Rules further state "Closed sessions of the City Council shall be permitted in manner prescribed under Michigan Public Act No 267 of 1976 and shall be called in the manner prescribed in said Public Act. Public Act No. 267 of 1976 is the Michigan Open Meetings Act.

¹ Act 267 of 1976: Effective March 31, 1977 (MCLA 15.261 et seq; MSA 4.1800 et seq.)

The Authority of the Open Meetings Act

The Open Meetings Act specifically states at Section 7. (1)

A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under sect 8(a), (b), (c), (g), (i) and (j).

Section (e) "To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body is not exempt from the 2/3 roll call vote of members elected or appointed and serving..."

RAD Recommendation

There for RAD advises that a 2/3 vote in the affirmative is required of all City Council Members elected and serving to call for a Closed Session to consult with its attorney regarding trial or settlement strategy.

If you have further direction or concerns, please do not hesitate to advise.

Attachments: Section 15.267 of the Michigan Open Meetings Act
City Council Rule 5.1 Open Meetings

a public meeting held pursuant to section 4(2) to (5) of Act No. 239 of the Public Acts of 1955, as amended, being section 200.304 of the Michigan Compiled Laws.

(5) A meeting of a public body which is recessed for more than 36 hours shall be reconvened only after public notice, which is equivalent to that required under subsection (4), has been posted. If either house of the state legislature is adjourned or recessed for less than 18 hours, the notice provisions of subsection (4) are not applicable. Nothing in this section shall bar a public body from meeting in emergency session in the event of a severe and imminent threat to the health, safety, or welfare of the public when 2/3 of the members serving on the body decide that delay would be detrimental to efforts to lessen or respond to the threat.

(6) A meeting of a public body may only take place in a residential dwelling if a nonresidential building within the boundary of the local governmental unit or school system is not available without cost to the public body. For a meeting of a public body which is held in a residential dwelling, notice of the meeting shall be published as a display advertisement in a newspaper of general circulation in the city or township in which the meeting is to be held. The notice shall be published not less than 2 days before the day on which the meeting is held, and shall state the date, time, and place of the meeting. The notice, which shall be at the bottom of the display advertisement and which shall be set off in a conspicuous manner, shall include the following language: "This meeting is open to all members of the public under Michigan's open meetings act".

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1978, Act 256, Imd. Eff. June 21, 1978;—Am. 1982, Act 134, Imd. Eff. Apr. 22, 1982;—Am. 1984, Act 167, Imd. Eff. June 29, 1984.

15.266 Providing copies of public notice on written request; fee.

Sec. 6. (1) Upon the written request of an individual, organization, firm, or corporation, and upon the requesting party's payment of a yearly fee of not more than the reasonable estimated cost for printing and postage of such notices, a public body shall send to the requesting party by first class mail a copy of any notice required to be posted pursuant to section 5(2) to (5).

(2) Upon written request, a public body, at the same time a public notice of a meeting is posted pursuant to section 5, shall provide a copy of the public notice of that meeting to any newspaper published in the state and to any radio and television station located in the state, free of charge.

History: 1976, Act 267, Eff. Mar. 31, 1977.

15.267 Closed sessions; roll call vote; separate set of minutes.

Sec. 7. (1) A 2/3 roll call vote of members elected or appointed and serving is required to call a closed session, except for the closed sessions permitted under section 8(a), (b), (c), (g), (i), and (j). The roll call vote and the purpose or purposes for calling the closed session shall be entered into the minutes of the meeting at which the vote is taken.

(2) A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

History: 1976, Act 267, Eff. Mar. 31, 1977;—Am. 1993, Act 81, Eff. Apr. 1, 1994;—Am. 1996, Act 464, Imd. Eff. Dec. 26, 1996.

15.268 Closed sessions; permissible purposes.

Sec. 8. A public body may meet in a closed session only for the following purposes:

(a) To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.

(b) To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.

(c) For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.

(d) To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.

(e) To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.

(f) To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).

(g) Partisan caucuses of members of the state legislature.

COUNCIL RULES

1 **4.4.3 Term:** The term of appointment for permanent members is three (3) years
2 on a staggered term basis.
3

4 **4.3.4 Role Of Board:** The Board shall advise the City Council on matters relating
5 to historic preservation, and in particular, proposals for the designation of local
6 historic districts.
7

8 **4.5 Board of Ethics:** Pursuant to section 2-106 of the City Charter as amended in 1997
9 and 2000, an independent seven (7) member Board of Ethics shall be created.
10

11 **4.5.1 Appointment:** The Board shall consist of seven (7) members of the public
12 including three (3) who are appointed by the Mayor, three (3) who are appointed
13 by the City Council, and one (1) who shall be jointly appointed by the Mayor and
14 the City Council. The members shall serve without compensation and may be
15 removed for cause only.
16

17 **4.5.2 Residency Requirement:** Public members of the Board shall be residents
18 of the City who are not elective officers, appointees, or employees of the City at
19 any time during their Board membership.
20

21 **4.5.3 Term:** The term of membership of the Board shall be five (5) years. Each
22 appointee may serve a maximum of two (2) consecutive five-year terms, not to
23 exceed a total of ten (10) years. Not more than two (2) members' terms shall
24 expire in any one (1) year.
25

26 **4.5.4 Role of the Board:** The Board of Ethics was created pursuant to Charter
27 section 2-106 for the following reasons: to render advisory opinions regarding the
28 meaning and application of provisions of the Charter, city ordinances or other
29 laws or regulations establishing standards of conduct of public servants; to
30 conduct investigations based upon a complaint or its own initiative to ensure the
31 integrity of city government; and to recommend improvements in the standards of
32 conduct to ensure the ethical behavior of public servants, all in a manner
33 consistent with the provisions of section 2-106 of the City Charter and the
34 provisions of Detroit City Code sections 2-6-1 *et seq.*
35
36

37 **5.0 COMPLIANCE WITH OPEN MEETINGS ACT**

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39 **5.1 Open Meetings:** All meetings of the Detroit City Council shall be open to the public
40 and held in accordance with the Michigan Open Meetings Act, 1976. P.A., MCLA
41 15.261 *et seq*; MSA 4.1800 *et seq.*
42

43 **5.2 Calendar Posting:** Within ten (10) days after the first Formal Session of a calendar
44 year public notice shall be posted stating the dates, times and places of its Formal
45 Sessions. A similar posting shall be made listing the dates and times of all Standing
46 Committee meetings.